

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Lamont A Thompson,
10 Plaintiff,

11 v.

12 Corizon Health Care Incorporated, et al.,
13 Defendants.
14

No. CV-19-02841-PHX-SRB (ESW)

ORDER

15 The Court has reviewed “Plaintiff’s Opposition/Response to Defendants Objection to
16 Request for Production of Documents” (Doc. 120) and Defendants’ Response (Doc. 121).
17 Plaintiff’s document violates the provision in the Scheduling Order concerning discovery disputes.
18 (Doc. 31 at 3). Accordingly, the “Plaintiff’s Opposition/Response to Defendants Objection to
19 Request for Production of Documents” (Doc. 120) will be stricken without prejudice to re-filing a
20 request for a discovery conference that complies with the Scheduling Order.

21 In addition, Plaintiff has filed with the Court a Request for Production of Documents (Doc.
22 116). Federal Rules of Civil Procedure Rule 5(d) states that “the following discovery
23 requests and responses must not be filed until they are used in the proceeding or the court
24 orders filing: depositions, interrogatories, requests for documents or tangible things or to
25 permit entry onto land, and requests for admission.” LRCiv 5.2 provides that “[a] ‘Notice
26 of Service’ of the disclosures and discovery requests and responses listed in Rule 5(d) of
27 the Federal Rules of Civil Procedure must be filed within a reasonable time after service
28 of such papers.”

1 Plaintiff propounds a number of discovery requests in his Request for Production of
2 Documents filed on September 3, 2020 (Doc. 116). Plaintiff has not “used” these discovery
3 requests in the proceeding (e.g. by relying upon responses in support of a motion,
4 supporting a motion to compel, etc.). Therefore, Plaintiff’s filing of the actual discovery
5 requests instead of a “Notice of Service” is in violation of LRCiv 5.2 and Rule 5(d) of the
6 Federal Rules of Civil Procedure. LRCiv 5.2 requires that Plaintiff file a “Notice of
7 Service” of discovery requests, not the discovery request itself. Therefore, the Court will
8 strike Plaintiff’s Request for Production of Documents (Doc. 116), deem the discovery
9 request to have been served on the date it was filed, and allow Plaintiff to file a Notice of
10 Service regarding the Request for Production of Documents within 30 days of the date of
11 filing this Order.

12 For the reasons set forth herein,

13 **IT IS ORDERED** striking Plaintiff’s Request for Production of Documents (Doc.
14 116) and “Plaintiff’s Opposition/Response to Defendants Objection to Request for
15 Production of Documents” (Doc. 120).

16 **IT IS FURTHER ORDERED** that Plaintiff file a Notice of Service of Plaintiff’s
17 Request for Production of Documents in compliance with LRCiv 5.2 no later than 30 days
18 from the date of filing this Order.

19 Dated this 6th day of October, 2020.

20
21 

22 _____
23 Honorable Eileen S. Willett
24 United States Magistrate Judge
25
26
27
28